

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 155

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

AN ACT

RELATING TO HEALTH INSURANCE; REQUIRING COVERAGE FOR DIAGNOSIS  
AND TREATMENT OF AUTISM SPECTRUM DISORDER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Health Care Purchasing  
Act is enacted to read:

"[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
DIAGNOSIS AND TREATMENT.--

A. Beginning with the open enrollment period for  
the 2010 plan year group health care coverage, including any  
form of self-insurance, offered, issued or renewed under the  
Health Care Purchasing Act shall provide coverage to employees  
and their covered dependents who are under eighteen years of  
age for:

- (1) well-baby and well-child screening,

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1 including a thirty-month well-child examination and autism  
2 screening tools designed to diagnose the presence of autism  
3 spectrum disorder; and

4 (2) treatment of autism spectrum disorder  
5 through medically necessary speech therapy, occupational  
6 therapy and physical therapy.

7 B. Coverage required pursuant to Subsection A of  
8 this section:

9 (1) shall be limited to treatment that is  
10 prescribed by the insured's treating physician in accordance  
11 with a treatment plan;

12 (2) shall be limited to thirty-six thousand  
13 dollars (\$36,000) annually and shall not exceed two hundred  
14 thousand dollars (\$200,000) in total lifetime benefits.

15 Beginning January 1, 2011, the maximum benefit shall be  
16 adjusted annually on January 1 to reflect any change from the  
17 previous year in the medical component of the then-current  
18 consumer price index for all urban consumers published by the  
19 bureau of labor statistics of the United States department of  
20 labor;

21 (3) shall not be denied on the basis that the  
22 services are habilitative or rehabilitative in nature;

23 (4) may be subject to other general exclusions  
24 and limitations of the group health care coverage, including  
25 coordination of benefits, participating provider requirements,

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1 restrictions on services provided by family or household  
2 members and utilization review of health care services,  
3 including the review of medical necessity, case management and  
4 other managed care provisions; and

5 (5) may be limited to exclude coverage for  
6 services received under the federal Individuals with  
7 Disabilities Education Improvement Act of 2004 and related  
8 state laws that place responsibility on state and local school  
9 boards for providing specialized education and related services  
10 to children three to twenty-two years of age who have autism  
11 spectrum disorder.

12 C. The coverage required pursuant to Subsection A  
13 of this section shall not be subject to dollar limits,  
14 deductibles or coinsurance provisions that are less favorable  
15 to an insured than the dollar limits, deductibles or  
16 coinsurance provisions that apply to physical illnesses that  
17 are generally covered under the group health care coverage  
18 plan, except as otherwise provided in Subsection B of this  
19 section.

20 D. An insurer shall not deny or refuse to issue  
21 health insurance coverage for medically necessary services or  
22 refuse to contract with, renew, reissue or otherwise terminate  
23 or restrict coverage for an individual because the individual  
24 is diagnosed as having or receiving treatment for an autism  
25 spectrum disorder.

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1           E. The treatment plan required pursuant to  
2 Subsection B of this section shall include all elements  
3 necessary for the group health care coverage plan to pay claims  
4 appropriately. These elements include:

- 5                   (1) the diagnosis;
- 6                   (2) the proposed treatment by types;
- 7                   (3) the frequency and duration of treatment;
- 8                   (4) the anticipated outcomes stated as goals;
- 9                   (5) the frequency with which the treatment  
10 plan will be updated; and
- 11                   (6) the signature of the treating physician.

12           F. This section shall not be construed as limiting  
13 benefits and coverage otherwise available to an insured under a  
14 group health care coverage plan.

15           G. The provisions of this section shall not apply  
16 to individual policies intended to supplement major medical  
17 group-type coverages such as medicare supplement, long-term  
18 care, disability income, specified disease, accident-only,  
19 hospital indemnity or other limited-benefit health insurance  
20 policies.

21           H. As used in this section:

- 22                   (1) "autism spectrum disorder" means a  
23 condition that meets the diagnostic criteria for the pervasive  
24 developmental disorders published in the Diagnostic and  
25 Statistical Manual of Mental Disorders, fourth edition, text

1 revision, also known as DSM-IV-TR, published by the American  
2 psychiatric association, including autistic disorder;  
3 Asperger's disorder; pervasive developmental disorder not  
4 otherwise specified, including atypical autism; Rett's  
5 disorder; and childhood disintegrative disorder; and

6 (2) "services that are habilitative or  
7 rehabilitative" means treatment programs that are necessary to  
8 develop, maintain and restore to the maximum extent practicable  
9 the functioning of the individual."

10 Section 2. A new section of Chapter 59A, Article 22 NMSA  
11 1978 is enacted to read:

12 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
13 DIAGNOSIS AND TREATMENT.--

14 A. An individual or group health insurance policy,  
15 health care plan or certificate of health insurance that is  
16 delivered, issued for delivery or renewed in this state on or  
17 after September 17, 2009 shall provide coverage to an eligible  
18 individual who is under eighteen years of age for:

19 (1) well-baby and well-child screening,  
20 including a thirty-month well-child examination and autism  
21 screening tools designed to diagnose the presence of autism  
22 spectrum disorder; and

23 (2) treatment of autism spectrum disorder  
24 through medically necessary speech therapy, occupational  
25 therapy and physical therapy.

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1           B. Coverage required pursuant to Subsection A of  
2 this section:

3                   (1) shall be limited to treatment that is  
4 prescribed by the insured's treating physician in accordance  
5 with a treatment plan;

6                   (2) shall be limited to thirty-six thousand  
7 dollars (\$36,000) annually and shall not exceed two hundred  
8 thousand dollars (\$200,000) in total lifetime benefits.  
9 Beginning January 1, 2011, the maximum benefit shall be  
10 adjusted annually on January 1 to reflect any change from the  
11 previous year in the medical component of the then-current  
12 consumer price index for all urban consumers published by the  
13 bureau of labor statistics of the United States department of  
14 labor;

15                   (3) shall not be denied on the basis that the  
16 services are habilitative or rehabilitative in nature;

17                   (4) may be subject to other general exclusions  
18 and limitations of the insurer's policy or plan, including  
19 coordination of benefits, participating provider requirements,  
20 restrictions on services provided by family or household  
21 members and utilization review of health care services,  
22 including the review of medical necessity, case management and  
23 other managed care provisions; and

24                   (5) may be limited to exclude coverage for  
25 services received under the federal Individuals with

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1 Disabilities Education Improvement Act of 2004 and related  
2 state laws that place responsibility on state and local school  
3 boards for providing specialized education and related services  
4 to children three to twenty-two years of age who have autism  
5 spectrum disorder.

6 C. The coverage required pursuant to Subsection A  
7 of this section shall not be subject to dollar limits,  
8 deductibles or coinsurance provisions that are less favorable  
9 to an insured than the dollar limits, deductibles or  
10 coinsurance provisions that apply to physical illnesses that  
11 are generally covered under the individual or group health  
12 insurance policy, health care plan or certificate of health  
13 insurance, except as otherwise provided in Subsection B of this  
14 section.

15 D. An insurer shall not deny or refuse to issue  
16 health insurance coverage for medically necessary services or  
17 refuse to contract with, renew, reissue or otherwise terminate  
18 or restrict coverage for an individual because the individual  
19 is diagnosed as having or receiving treatment for an autism  
20 spectrum disorder.

21 E. The treatment plan required pursuant to  
22 Subsection B of this section shall include all elements  
23 necessary for the health insurance plan to pay claims  
24 appropriately. These elements include:

25 (1) the diagnosis;

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- 1 (2) the proposed treatment by types;
- 2 (3) the frequency and duration of treatment;
- 3 (4) the anticipated outcomes stated as goals;
- 4 (5) the frequency with which the treatment
- 5 plan will be updated; and
- 6 (6) the signature of the treating physician.

7 F. This section shall not be construed as limiting  
8 benefits and coverage otherwise available to an insured under a  
9 health insurance plan.

10 G. The provisions of this section shall not apply  
11 to individual policies intended to supplement major medical  
12 group-type coverages such as medicare supplement, long-term  
13 care, disability income, specified disease, accident-only,  
14 hospital indemnity or other limited-benefit health insurance  
15 policies.

16 H. As used in this section:

- 17 (1) "autism spectrum disorder" means a  
18 condition that meets the diagnostic criteria for the pervasive  
19 developmental disorders published in the Diagnostic and  
20 Statistical Manual of Mental Disorders, fourth edition, text  
21 revision, also known as DSM-IV-TR, published by the American  
22 psychiatric association, including autistic disorder;  
23 Asperger's disorder; pervasive developmental disorder not  
24 otherwise specified, including atypical autism; Rett's  
25 disorder; and childhood disintegrative disorder; and

1 (2) "services that are habilitative or  
2 rehabilitative" means treatment programs that are necessary to  
3 develop, maintain and restore to the maximum extent practicable  
4 the functioning of the individual."

5 Section 3. A new section of Chapter 59A, Article 23 NMSA  
6 1978 is enacted to read:

7 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
8 DIAGNOSIS AND TREATMENT.--

9 A. A blanket or group health insurance policy or  
10 contract that is delivered, issued for delivery or renewed in  
11 this state on or after September 17, 2009 shall provide  
12 coverage to an eligible individual who is under eighteen years  
13 of age for:

14 (1) well-baby and well-child screening,  
15 including a thirty-month well-child examination and autism  
16 screening tools designed to diagnose the presence of autism  
17 spectrum disorder; and

18 (2) treatment of autism spectrum disorder  
19 through medically necessary speech therapy, occupational  
20 therapy and physical therapy.

21 B. Coverage required pursuant to Subsection A of  
22 this section:

23 (1) shall be limited to treatment that is  
24 prescribed by the insured's treating physician in accordance  
25 with a treatment plan;

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1 (2) shall be limited to thirty-six thousand  
2 dollars (\$36,000) annually and shall not exceed two hundred  
3 thousand dollars (\$200,000) in total lifetime benefits.  
4 Beginning January 1, 2011, the maximum benefit shall be  
5 adjusted annually on January 1 to reflect any change from the  
6 previous year in the medical component of the then-current  
7 consumer price index for all urban consumers published by the  
8 bureau of labor statistics of the United States department of  
9 labor;

10 (3) shall not be denied on the basis that the  
11 services are habilitative or rehabilitative in nature;

12 (4) may be subject to other general exclusions  
13 and limitations of the insurer's policy or plan, including  
14 coordination of benefits, participating provider requirements,  
15 restrictions on services provided by family or household  
16 members and utilization review of health care services,  
17 including the review of medical necessity, case management and  
18 other managed care provisions; and

19 (5) may be limited to exclude coverage for  
20 services received under the federal Individuals with  
21 Disabilities Education Improvement Act of 2004 and related  
22 state laws that place responsibility on state and local school  
23 boards for providing specialized education and related services  
24 to children three to twenty-two years of age who have autism  
25 spectrum disorder.

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1           C. The coverage required pursuant to Subsection A  
2 of this section shall not be subject to dollar limits,  
3 deductibles or coinsurance provisions that are less favorable  
4 to an insured than the dollar limits, deductibles or  
5 coinsurance provisions that apply to physical illnesses that  
6 are generally covered under the blanket or group health  
7 insurance policy or contract, except as otherwise provided in  
8 Subsection B of this section.

9           D. An insurer shall not deny or refuse to issue  
10 health insurance coverage for medically necessary services or  
11 refuse to contract with, renew, reissue or otherwise terminate  
12 or restrict coverage for an individual because the individual  
13 is diagnosed as having or receiving treatment for an autism  
14 spectrum disorder.

15           E. The treatment plan required pursuant to  
16 Subsection B of this section shall include all elements  
17 necessary for the health insurance plan to pay claims  
18 appropriately. These elements include:

- 19                   (1) the diagnosis;  
20                   (2) the proposed treatment by types;  
21                   (3) the frequency and duration of treatment;  
22                   (4) the anticipated outcomes stated as goals;  
23                   (5) the frequency with which the treatment  
24 plan will be updated; and  
25                   (6) the signature of the treating physician.

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1           F. This section shall not be construed as limiting  
2 benefits and coverage otherwise available to an insured under a  
3 health insurance plan.

4           G. The provisions of this section shall not apply  
5 to individual policies intended to supplement major medical  
6 group-type coverages such as medicare supplement, long-term  
7 care, disability income, specified disease, accident-only,  
8 hospital indemnity or other limited benefit health insurance  
9 policies.

10           H. As used in this section:

11                   (1) "autism spectrum disorder" means a  
12 condition that meets the diagnostic criteria for the pervasive  
13 developmental disorders published in the Diagnostic and  
14 Statistical Manual of Mental disorders, fourth edition, text  
15 revision, also known as DSM-IV-TR, published by the American  
16 psychiatric association, including autistic disorder;  
17 Asperger's disorder; pervasive developmental disorder not  
18 otherwise specified, including atypical autism; Rett's  
19 disorder; and childhood disintegrative disorder; and

20                   (2) "services that are habilitative or  
21 rehabilitative" means treatment programs that are necessary to  
22 develop, maintain and restore to the maximum extent practicable  
23 the functioning of the individual."

24           Section 4. A new section of the Health Maintenance  
25 Organization Law is enacted to read:

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1           "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
2 DIAGNOSIS AND TREATMENT.--

3           A. An individual or group health maintenance  
4 contract that is delivered, issued for delivery or renewed in  
5 this state on or after September 17, 2009 shall provide  
6 coverage to an eligible individual who is under eighteen years  
7 of age for:

8                       (1) well-baby and well-child screening,  
9 including a thirty-month well-child examination and autism  
10 screening tools designed to diagnose the presence of autism  
11 spectrum disorder; and

12                      (2) treatment of autism spectrum disorder  
13 through medically necessary speech therapy, occupational  
14 therapy and physical therapy.

15           B. Coverage required pursuant to Subsection A of  
16 this section:

17                      (1) shall be limited to treatment that is  
18 prescribed by the insured's treating physician in accordance  
19 with a treatment plan;

20                      (2) shall be limited to thirty-six thousand  
21 dollars (\$36,000) annually and shall not exceed two hundred  
22 thousand dollars (\$200,000) in total lifetime benefits.  
23 Beginning January 1, 2011, the maximum benefit shall be  
24 adjusted annually on January 1 to reflect any change from the  
25 previous year in the medical component of the then-current

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underscored material = new  
[bracketed material] = delete

1 consumer price index for all urban consumers published by the  
2 bureau of labor statistics of the United States department of  
3 labor;

4 (3) shall not be denied on the basis that the  
5 services are habilitative or rehabilitative in nature;

6 (4) may be subject to other general exclusions  
7 and limitations of the insurer's policy or plan, including  
8 coordination of benefits, participating provider requirements,  
9 restrictions on services provided by family or household  
10 members and utilization review of health care services,  
11 including the review of medical necessity, case management and  
12 other managed care provisions; and

13 (5) may be limited to exclude coverage for  
14 services received under the federal Individuals with  
15 Disabilities Education Improvement Act of 2004 and related  
16 state laws that place responsibility on state and local school  
17 boards for providing specialized education and related services  
18 to children three to twenty-two years of age who have autism  
19 spectrum disorder.

20 C. The coverage required pursuant to Subsection A  
21 of this section shall not be subject to dollar limits,  
22 deductibles or coinsurance provisions that are less favorable  
23 to an insured than the dollar limits, deductibles or  
24 coinsurance provisions that apply to physical illnesses that  
25 are generally covered under the individual or group health

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1 maintenance contract, except as otherwise provided in  
2 Subsection B of this section.

3 D. An insurer shall not deny or refuse to issue  
4 health insurance coverage for medically necessary services or  
5 refuse to contract with, renew, reissue or otherwise terminate  
6 or restrict coverage for an individual because the individual  
7 is diagnosed as having or receiving treatment for an autism  
8 spectrum disorder.

9 E. The treatment plan required pursuant to  
10 Subsection B of this section shall include all elements  
11 necessary for the health insurance plan to pay claims  
12 appropriately. These elements include:

- 13 (1) the diagnosis;
- 14 (2) the proposed treatment by types;
- 15 (3) the frequency and duration of treatment;
- 16 (4) the anticipated outcomes stated as goals;
- 17 (5) the frequency with which the treatment  
18 plan will be updated; and
- 19 (6) the signature of the treating physician.

20 F. This section shall not be construed as limiting  
21 benefits and coverage otherwise available to an insured under a  
22 health insurance plan.

23 G. The provisions of this section shall not apply  
24 to individual policies intended to supplement major medical  
25 group-type coverages such as medicare supplement, long-term

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1 care, disability income, specified disease, accident-only,  
2 hospital indemnity or other limited-benefit health insurance  
3 policies.

4 H. As used in this section:

5 (1) "autism spectrum disorder" means a  
6 condition that meets the diagnostic criteria for the pervasive  
7 developmental disorders published in the Diagnostic and  
8 Statistical Manual of Mental Disorders, fourth edition, text  
9 revision, also known as DSM-IV-TR, published by the American  
10 psychiatric association, including autistic disorder;  
11 Asperger's disorder; pervasive developmental disorder not  
12 otherwise specified, including atypical autism; Rett's  
13 disorder; and childhood disintegrative disorder; and

14 (2) "services that are habilitative or  
15 rehabilitative" means treatment programs that are necessary to  
16 develop, maintain and restore to the maximum extent practicable  
17 the functioning of the individual."

18 Section 5. A new section of the Nonprofit Health Care  
19 Plan Law is enacted to read:

20 "[NEW MATERIAL] COVERAGE FOR AUTISM SPECTRUM DISORDER  
21 DIAGNOSIS AND TREATMENT.--

22 A. Beginning with the open enrollment period for  
23 the 2010 plan year group health care coverage, an individual or  
24 group health insurance policy, health care plan or certificate  
25 of health insurance delivered or issued for delivery in this

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1 state shall provide coverage to an eligible individual who is  
2 under eighteen years of age for:

3 (1) well-baby and well-child screening,  
4 including a thirty-month well-child examination and autism  
5 screening tools designed to diagnose the presence of autism  
6 spectrum disorder; and

7 (2) treatment of autism spectrum disorder  
8 through medically necessary speech therapy, occupational  
9 therapy and physical therapy.

10 B. Coverage required pursuant to Subsection A of  
11 this section:

12 (1) shall be limited to treatment that is  
13 prescribed by the insured's treating physician in accordance  
14 with a treatment plan;

15 (2) shall be limited to thirty-six thousand  
16 dollars (\$36,000) annually and shall not exceed two hundred  
17 thousand dollars (\$200,000) in total lifetime benefits.

18 Beginning January 1, 2011, the maximum benefit shall be  
19 adjusted annually on January 1 to reflect any change from the  
20 previous year in the medical component of the then-current  
21 consumer price index for all urban consumers published by the  
22 bureau of labor statistics of the United States department of  
23 labor;

24 (3) shall not be denied on the basis that the  
25 services are habilitative or rehabilitative in nature;

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1 (4) may be subject to other general exclusions  
2 and limitations of the insurer's policy, plan or certificate,  
3 including coordination of benefits, participating provider  
4 requirements, restrictions on services provided by family or  
5 household members and utilization review of health care  
6 services, including the review of medical necessity, case  
7 management and other managed care provisions; and

8 (5) may be limited to exclude coverage for  
9 services received under the federal Individuals with  
10 Disabilities Education Improvement Act of 2004 and related  
11 state laws that place responsibility on state and local school  
12 boards for providing specialized education and related services  
13 to children three to twenty-two years of age who have autism  
14 spectrum disorder.

15 C. The coverage required pursuant to Subsection A  
16 of this section shall not be subject to dollar limits,  
17 deductibles or coinsurance provisions that are less favorable  
18 to an insured than the dollar limits, deductibles or  
19 coinsurance provisions that apply to physical illnesses that  
20 are generally covered under the individual or group health  
21 insurance policy, health care plan or certificate of health  
22 insurance, except as otherwise provided in Subsection B of this  
23 section.

24 D. An insurer shall not deny or refuse to issue  
25 health insurance coverage for medically necessary services or

1 refuse to contract with, renew, reissue or otherwise terminate  
2 or restrict coverage for an individual because the individual  
3 is diagnosed as having or receiving treatment for an autism  
4 spectrum disorder.

5 E. The treatment plan required pursuant to  
6 Subsection B of this section shall include all elements  
7 necessary for the health insurance plan to pay claims  
8 appropriately. These elements include:

- 9 (1) the diagnosis;  
10 (2) the proposed treatment by types;  
11 (3) the frequency and duration of treatment;  
12 (4) the anticipated outcomes stated as goals;  
13 (5) the frequency with which the treatment  
14 plan will be updated; and  
15 (6) the signature of the treating physician.

16 F. This section shall not be construed as limiting  
17 benefits and coverage otherwise available to an insured under a  
18 health insurance policy, health care plan or certificate of  
19 health insurance.

20 G. The provisions of this section shall not apply  
21 to individual policies intended to supplement major medical  
22 group-type coverages such as medicare supplement, long-term  
23 care, disability income, specified disease, accident-only,  
24 hospital indemnity or other limited-benefit health insurance  
25 policies.

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1 H. As used in this section:

2 (1) "autism spectrum disorder" means a  
3 condition that meets the diagnostic criteria for the pervasive  
4 developmental disorders published in the Diagnostic and  
5 Statistical Manual of Mental Disorders, fourth edition, text  
6 revision, also known as DSM-IV-TR, published by the American  
7 psychiatric association, including autistic disorder;  
8 Asperger's disorder; pervasive developmental disorder not  
9 otherwise specified, including atypical autism; Rett's  
10 disorder; and childhood disintegrative disorder; and

11 (2) "services that are habilitative or  
12 rehabilitative" means treatment programs that are necessary to  
13 develop, maintain and restore to the maximum extent practicable  
14 the functioning of the individual."

underscoring material = new  
~~[bracketed material] = delete~~